IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 365 OF 2001 (M/S)
Old CMWP No. 12363 of 1995

1. State of U.P. through the Collector Dehradun
2. Competent Authority, Urban Land Ceiling Dehradun. … **Petitioners.**

Versus

1. District Judge, Dehradun
2. Inder Singh (legal heirs)
3. Purai son of Shibba
4. Chhotey Lal son of Shibba
   All residents of Smith Nagar Dehradun.

…. Respondents.

Dated 28-2-2006

Hon'ble B.S. Verma, J.

By means of the present Writ Petition, the petitioners-State has challenged the judgment and order dated 03-05-1994 passed by the District Judge, Dehradun (respondent no. 1) in Urban Land Ceiling Appeal No. 59 of 1993, Sri Inder Singh vs. Competent Authority. By the impugned judgment and order ***(Annexure-1 to the writ petition),*** respondent no.1 allowed the appeal and declared that there is no excess vacant land in possession of the appellant Inder Singh.

Brief facts giving rise to the present writ petition are that in pursuance of the provisions of Section 6 (1) of the Urban Land (Ceiling and Regulation) Act ***(in short the Act),*** the respondent nos. 3 and 4 filed the statement of properties held by them. Notices were issued to the land holders and draft statement was issued under Section 8(3) of the Act proposing land to the extent of 8724.86 sq.mt. to be declared as surplus vacant land and the proceedings were initiated. The learned Competent Authority after perusing the material on record came to the conclusion that Purai and Chottey Lal were possessed of 8724.86 sq.mt. of vacant

land after giving the benefit of 2000 sq. mt. Land to each of them, the remaining land of 4724.86 sq.mt. was declared as surplus vacant land and passed the impugned judgment and order dated 26.12.1991 confirming the notice under Section 8(3) of the Act. Aggrieved by the said order, Inder Singh son of Chottey Lal (since deceased) preferred appeal before the District Judge. The learned District Judge after hearing both the parties came to the conclusion that the entire land possessed by Sri Chottey Lal was agricultural land and the provisions of the Act were not applicable to the land in dispute. Ultimately, the appeal preferred by the appellant Inder Singh was allowed holding that Inder Singh is not possessed of any excess vacant land vide order dated 3-5-1994. Aggrieved by the impugned order, the State has come up before this Court in the Writ Petition.

From a bare perusal of the impugned judgment and order dated 3.5.1994 it is evident that the learned District Judge has allowed the appeal preferred by the respondent no.2 Inder Singh, who is son of deceased Chhotey Lal. It was also observed by the District Judge that Purai (respondent No.3) had not preferred any appeal.

I have heard learned Standing Counsel for the State and perused the record.

The Act Urban Land (Ceiling and Regulation) Act, 1976 (Act No. 33 of 1976) was repealed by the Central Act No. 15 of 1999. The Legislature of State of U.P. has since adopted the provisions of the Urban Land (Ceiling and Regulation) Act 1999, by a resolution as required by Article 252(2) of the Constitution, which has come into force in Uttar Pradesh on 18-03-1999 and the same are also applicable in the State of Uttaranchal.

Section 4 of the Urban Land (Ceiling and Regulation) Repeal Act, 1999 provides as under:

> ***"4. Abatement of legal proceedings.-All proceedings relation to any order made or purported to be made under the principal Act pending immediately before the commencement of this Act, before any Court, Tribunal or other authority shall abate;***
>
> ***Provided that this section shall not apply to the proceedings relating to Sections 11, 12, 13 and 14 of the principal Act in so far as such proceedings are relatable to the land possession of which has been taken over by the State Government or any person duly authorized by the State Government in this behalf or by the competent authority."***

The Appellate Court, as mentioned earlier, allowed the appeal of respondent no. 2 Inder Singh and declared that the appellant Inder Sing is not possessed of any excess vacant land. As stated by the learned Standing Counsel, Sri Nand Prasad, appearing on behalf of the State, no declaration has been published under Section 10(3) of the principal Act, therefore, no question of vesting of the land in the State or taking over possession arises. The effect of the repealing Act on present case is that where for land in dispute, no declaration was published under Section 10(3) of the Act, there is no question of vesting the land in the State or taking over possession of it. The present proceedings have to be abated and are hereby abated under Section 4 of the Urban Land (Ceiling and Regulation) Repeal Act, 1999.

The facts of the case are squarely covered by the judgment of the Apex Court in the case of ***"Pt. Madan Swaroop Shrotiya Public Charitable Trust Vs. State of U.P. and others" (2000, AIR, SCW, 1882).***

In view of the above, the Writ Petition has become infructuous and is dismissed as infructuous. Ordered accordingly.

(B.S.Verma, J.)

RCP